

## **CHAPTER 12**

### **PROPERTY MANAGEMENT**

An AEA may hold property and execute lease-purchase agreements pursuant to subsection 273.3(7), and if the lease exceeds ten years or the purchase price of the property to be acquired pursuant to a lease-purchase agreement exceeds \$25,000, the AEA shall conduct a public hearing on the proposed lease-purchase agreement and receive approval from the AEA board of directors and the director of the department of education before entering into the agreement (273.2).

The AEA board is authorized to lease, subject to the approval of the director of the department of education and to receive by gift and operate and maintain facilities and buildings necessary to provide authorized programs and services. However, a lease for less than 10 years and with an annual cost of less than \$25,000 does not require the approval of the director. If a lease requires approval the director shall not approve the lease until the director is satisfied by investigation that public school corporations within the area do not have suitable facilities available (273.3(7)).

The AEA board is authorized to purchase equipment as provided in section 279.48 (273.3(20)).

The board of directors of a school corporation may purchase equipment, and may negotiate and enter into a loan agreement and issue a note to pay for the equipment (279.48(1)). Before entering into a loan agreement for an equipment purchase, the school corporation must publish a notice, including a statement of the amount and purchase of the agreement, at least once in a newspaper of general circulation within the school corporation at least ten days before the meeting at which the loan agreement is to be approved (279.48(3)).

Public buildings owned by the state, or any county, city, school district, or other municipal corporation, or any other public property which is necessary and proper for carrying out the general purpose for which such corporation is organized, are exempt from execution (627.18).

### **Inventory**

A school corporation which owns facilities used as attendance centers for students shall maintain an itemized statement of the appraised value of all buildings owned by the school corporation. Beginning July 1, 1976, the appraisal shall be updated at least one time every five years (282.24).

### **Use of School Property**

The board of directors of any school district may authorize the use of any schoolhouse and its grounds within such district for the purpose of meetings of granges, lodges, agricultural societies, and similar societies, for parent-teacher associations, for community recreational activities, community education programs, election purposes, other meetings of public interest, public forums and similar community purposes; provided that such use shall in no way interfere with school activities; such use to be for such compensation and upon such terms and conditions as may be fixed by said board for the proper protection of the schoolhouse and the property belonging therein, including that of pupils, except that in the case of community education programs, any compensation necessary for programs provided specifically by community education and not those provided through community education by other agencies or organizations shall be compensated from the funding provided for community education programs (297.9).

Any compensation for such use shall be paid into the general fund and be expended in the upkeep and repair of such school property, and in purchasing supplies therefor (297.10).

In carrying out the provisions of chapter 29C regarding emergency management services, the governor and the director of the department of public defense, and the executive officers or governing boards of political subdivisions of the state shall utilize, to the maximum extent practicable, the services, equipment, supplies and facilities of existing departments, officers, and agencies of the state and of political subdivisions at their respective levels of responsibility (29C.12).

No one has the right to demand the free use of a gymnasium or auditorium or other school facility, but a board may authorize its use at any time that such use does not interfere with regular school activities (OAG #35-6-19(L)).

A leasehold interest in vehicles or other property is "public property" if the lease is acquired in the name of a public agency or is acquired with public funds. Private use of public property is permissible only if the private use is incidental to a public purpose. Heads of agencies should promulgate rules establishing guidelines for mixed public and

private usage of public owned property. A contract may not authorize purely private use of public property, nor may public property be used for purely private purposes on a reimbursement basis (OAG #83-5-13).

The property of a school corporation when devoted to public use and not held for pecuniary profit shall not be taxed (427.1(2)).

Public buildings or any other public property owned by the school district which is necessary and proper for carrying out the general purpose for which such corporation is organized, are exempt from execution of judgments (627.18).

The board of directors shall notify the cities located within the school district, the counties in which the school district is located, and the department of general services annually of the facilities and buildings owned by the public school corporation which are vacant and available to be leased or purchased (297.4).

Before proceeding to construct or purchase a facility as otherwise provided by law, a public agency shall inquire of other public agencies having facilities within the same general geographic area concerning the availability of all or part of those facilities for rent or sharing by agreement with the inquiring public agency. If there are no suitable facilities available for rent or sharing, the governing body of the public agency shall record its findings in its meeting minutes (28E.18).

The governor shall issue an executive order requiring all state agencies to consider the leasing of a vacant facility or building which is appropriately located and which is owned by a public school corporation before a state agency leases, purchases, or constructs a facility or building. The state agency may lease a facility or building owned by a public school corporation with an option to purchase the facility or building in compliance with section 297.22. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the state agency at least thirty days before the termination of the lease (7.20).

## **Religious Use**

If school districts permit community groups to use schoolhouse or grounds for meetings, religious groups are entitled to use school property on an equal basis. School boards may promulgate 'time, place and manner' regulations for use of school property (OAG #82-4-29).

School districts and AEA boards, shall make public school services which shall include special education programs and services and may include health services, services for remedial education programs, guidance services, and school testing services, available to children attending nonpublic schools in the same manner and to the same extent that they are provided to public school students. However, services that are made available shall be provided on neutral sites, or in mobile units located off the nonpublic school premises as determined by the boards of the school districts and AEAs providing the services, and not on nonpublic school property, except health services, services funded by Title I of the federal Elementary and Secondary Education Act of 1965, diagnostic services for speech, hearing, and psychological purposes, and assistance with physical and communication needs of students with physical disabilities, and services of an educational interpreter, which may be provided on nonpublic school premises, with the permission of the lawful custodian (256.12(2)).

A public school board may lease a vacant school building to a parochial school board for one year if adequate consideration is paid for the leasehold interest (OAG #65-6-14).

## **Maintenance of School Property**

The board shall make rules for the care of the schoolhouse, grounds, and property of the school corporation (279.8).

The control and management of a school building is placed exclusively with the board of directors of the school district and cannot be voted or delegated to any other agency (1938 Op. Att'y Gen. 234 (#37-5-17)).

Electric companies have no right to trespass upon school property and they may be compelled to remove wires from crossing over a section of the school property. The enforcement would give the electric companies no right to cut off the service to the buildings (1928 Op. Att'y Gen. 136 (#37-3-31)).

A municipality cannot directly or indirectly prohibit a fire department from answering a fire call or making an inspection of school buildings within the corporate limits of the municipality (OAG #60-7-13).

It shall be the duty of any board of public officers charged with providing supplies for a public building to provide a suitable state flag, and it shall be the duty of the custodian of any public building to raise the flags of the United States of America and the state of Iowa, upon each secular day when weather conditions are favorable (1B.3).

School districts and AEAs shall identify and implement, through energy audits and engineering analyses, all energy conservation measures identified for which financing is made available by the department of natural resources to the entity. The energy conservation measure financings shall be supported through payment from energy savings. The department shall not require a school district or AEA to perform an engineering analysis if the school district or AEA demonstrates to the department that the facility which is the subject of the proposed engineering analysis at issue is unlikely to be in use or operation in six years by the governmental entity currently using or occupying the facility (473.13A).

Between July 1, 1986, and June 30, 1991, and on a staggered annual basis each five years thereafter, the board of directors of each school district shall file with the department of natural resources, on forms prescribed by the department of natural resources, the results of an energy audit of the buildings owned and leased by the school district. The department of natural resources may waive the requirement for the initial and subsequent energy audits for school districts that submit evidence that energy audits were conducted prior to January 1, 1987, and energy consumption of the district is at an adjusted statewide average or below. This section takes effect only if funds have been made available to a school district to pay the costs of the energy audit (279.44).

Officials and teachers of all schools are required to keep all doors and exits of their respective rooms and buildings unlocked when occupied during school hours or when such areas are being used by the public at other times (100.31).

If a building or structure has a floor space of five thousand square feet or less, an employer shall post signs on the outside of the building or structure identifying the type of each hazardous chemical contained in the building or structure. If the building has more than five thousand square feet, the employer shall post a sign at the place within the building where each hazardous chemical is permanently stored to identify the type of hazardous chemical. If the hazardous chemical or a portion of the hazardous chemical is moved within the building, the employer shall also move the sign or post an additional sign at the location where the hazardous chemical is moved. All letters and figures on signs required shall be at least three inches in height (89B.14).

A school district cannot contribute (voluntarily as opposed to paying a special assessment) its funds for the aid of a city or town sewage extension (OAG #62-5-19).

Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act (716.1).

## **Acquisition of Buildings and Sites**

### **Financing Sources**

#### **Gifts and Bequests**

School corporations are authorized to take and hold property, real and personal, by gift and bequest and to administer the property through the proper officer in pursuance of the terms of the gift or bequest. Title shall not pass unless accepted by the governing board of the corporation. Conditions attached to the gifts or bequests become binding upon the corporation upon acceptance (565.6).

The board of directors of any school district which receives funds through gifts, devises and bequests shall deposit these funds in a trust or agency fund and use them in accordance with the terms of the gift, devise, or bequest (279.42).

Bequests to a school district must be turned over to the school treasurer and treated like all other school district moneys (OAG #27-6-7(L)).

#### **Lease-Purchase and Other Contracts**

It is legally possible for one school district to lease a facility from another provided the agreement between them meets the requirements of chapter 28E dealing with joint exercise of governmental powers (OAG #69-5-1).

A school board of a community school district may enter into a contract for the rental of a school building from a church or church corporation, provided that the building is not a place of worship and that under the terms of the lease

the building would not be under ecclesiastical or sectarian control. Such school board could enter into a contract for the rental of a building to be used as school rooms with a non-profit corporation which non-profit corporation would in advance lease the said school building from a church. Such school board could enter into a contract for rental of a building to be used as school rooms with a non-profit corporation, where the non-profit corporation owned and held title to the school building and the land underneath the building. The local school board could purchase land or a building from such a non-profit corporation (1970 Op. Att'y Gen. 110 (#69-4-9)).

### **Asbestos Project Grant Awards**

The board of directors may pay the actual cost of an asbestos project from any funds in the general fund of the district [AEA] or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this subsection over a three-year period. For the purpose of this section, "cost of an asbestos project" includes the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, developing of management plans and recordkeeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation (279.52).

A state agency or political subdivision shall not accept a bid in connection with any asbestos project from a business entity which does not hold a permit from the division of labor services of the department of workforce development at the time the bid is submitted (88B.11).

## **Acquisition**

### **Sites**

School sites may be purchased from a school board member. This is an unusual procedure and such a transaction should be so "above-board" that no accusation of collusion as to sale and price could be justified (1929 Op. Att'y Gen. 104).

A school district is immune from the restrictions of zoning ordinances (Bloomfield v. Davis County Community School District, 254 Iowa 900, 119 N.W. 2d, 909).

### **Accessibility for Persons with Disabilities**

#### **Buildings**

It is the intent of Iowa Code chapter 104A that standards and specifications are followed in the construction of public and private buildings and facilities which are intended for use by the general public to ensure that these buildings and facilities are accessible to and functional for persons with disabilities (104A.1). The standards and specifications adopted by the state building code commissioner and set forth in chapter 104A shall apply to all public and private buildings and facilities, temporary and permanent, used by the general public (104A.2).

#### **Parking**

1. Persons with disabilities parking spaces and access loading zones for persons with disabilities that serve a particular building shall be located on the shortest accessible route to the nearest accessible entrance to the building.
2. A person with disabilities parking space designated after July 1, 1990, shall comply with the dimension requirements in rules and in effect when the spaces are designated. Adopted rules shall be accepted national standards for dimensions of persons with disabilities spaces, consistent with the requirements of federal law. However, these dimension requirements do not apply to parallel on-street parking spaces.
3.
  - a. The state or a political subdivision of the state which provides off-street public parking facilities or an entity providing nonresidential parking on off-street public parking facilities shall provide not less than two percent of the total parking spaces in each parking facility as persons with disabilities parking spaces, rounded to the nearest whole number of persons with disabilities parking spaces. However, such parking facilities having ten or more parking spaces shall set aside at least one persons with disabilities parking space.
  - b. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing persons with disabilities parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for persons with disabilities parking spaces in a facility exceeds sixty percent during normal business hours, the entity shall provide additional persons with disabilities parking spaces as needed.

c. An entity providing off-street nonresidential parking as a lessor shall provide a persons with disabilities parking space to an individual requesting to lease a parking space, if that individual possesses a persons with disabilities parking permit.

d. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide persons with disabilities parking spaces as stipulated below:

Total Parking Spaces in Lot	Required Minimum Number of Persons with Disabilities Parking Spaces
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 spaces plus 1 for each 100 over 1000

e. Any other person may also set aside persons with disabilities parking spaces on the person's property provided each persons with disabilities parking space is clearly and prominently designated as a person with disabilities parking space.

5. A persons with disabilities parking space located on a paved surface may be painted with a blue background upon which the international symbol of accessibility is painted in white or yellow paint. However, the blue background paint may be omitted. As used in this subsection, "paved surface" includes surfaces which are asphalt surfaced.
6. A persons with disabilities parking review committee may be established by the state and each political subdivision of the state which is required to provide persons with disabilities parking spaces in off-street public parking facilities according to subsection 3. The persons with disabilities parking review committee shall consist of five members who are persons with disabilities as defined in section 321L.1 and five members who are officials of the state or political subdivision. The persons with disabilities parking review committee shall have the discretion to increase or decrease the numbers of persons with disabilities parking spaces required by this section. A decision to change the numbers or location of persons with disabilities parking spaces shall be based upon the needs of the community, the percentage of use of the present persons with disabilities parking spaces, and the past experience of the state or political subdivision regarding persons with disabilities parking. An individual may request the persons with disabilities parking committee to review the amounts and locations of persons with disabilities parking spaces. The persons with disabilities parking review committee shall investigate each individual's request and shall act upon such request if the investigation substantiates the individual's complaint (321L.5).

A persons with disabilities parking sign shall be displayed designating the persons with disabilities parking space.

1. The persons with disabilities parking sign shall have a blue background and bear the international symbol of accessibility in white. If an entity who owns or leases real property in a city is required to provide persons with disabilities parking spaces, the city shall provide, upon request, the signs for the entity at cost. If an entity who owns or leases real property outside the corporate limits of a city is required to provide persons with disabilities parking spaces, the county in which the property is located shall provide the signs for the entity at cost upon request.
2. The persons with disabilities parking sign shall be affixed vertically on another object so that it is readily visible to a driver of a motor vehicle approaching the persons with disabilities parking space. A persons with disabilities parking space designated only by the international symbol of accessibility being painted or otherwise placed horizontally on the parking space does not meet the requirements of this subsection (321L.6).

Failure to provide proper persons with disabilities parking spaces as provided in section 321L.5 or to properly display persons with disabilities parking signs as provided in section 321L.6 is a simple misdemeanor punishable as a scheduled violation under section 805.8A(1)(c) (321L.7).

#### State Building Codes

The authority responsible for the construction of any building or facility covered by section 104A.2 shall conform with rules adopted by the state building code commissioner as provided in Iowa Code section 103A.7 (104A.6).

Nothing in chapter 103A shall be construed as prohibiting any governmental subdivision from adopting or enacting any building regulations relating to any building or structure within its limits, but a governmental subdivision in which the state building code has been accepted and is applicable shall not have the power to supersede, void, or repeal or make more restrictive any of the provisions of chapter 103A or of the rules adopted by the commissioner (103A.22(1)).

Notwithstanding the provisions of subsection 103A.22(1):

- a. Provisions of the state building code establishing thermal efficiency energy conservation standards shall be applicable to all new construction owned by a political subdivision of the state, to all new construction located in a governmental subdivision which has adopted either the state building code or a local building code or compilation of requirements for building construction and to all other new construction in the state which will contain more than one hundred thousand cubic feet of enclosed space that is heated or cooled.
- b. Provisions of the state building code establishing lighting efficiency standards shall be applicable to all new construction owned by a political subdivision of the state and to all new construction, in the state, of buildings which are open to the general public during normal business hours (103A.10(4)).

Places of assembly for public use including but not limited to theaters, auditoriums, and convention halls, constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the uniform plumbing code. All toilets installed pursuant to section 104B.1 shall be water efficient toilets which use three gallons or less of water per flush (104B.1).

### **Energy Conservation and Life Cycle Analysis**

Life cycle cost analysis means an analytical technique that considers certain costs of owning, using and operating a facility over its economic life including but not limited to the following:

- a. Initial costs.
- b. System repair and replacement costs.
- c. Maintenance costs.
- d. Operating costs, including energy costs.
- e. Salvage value (470.1(8)).

A contract for a public improvement or construction of a public building, including new construction or renovation of an existing public building shall not be let without satisfying the following requirements:

- a. A design professional submitting a design development proposal for consideration of the public body shall at minimum prepare one proposal meeting the design program's space and use requirements which reflects the lowest life cycle cost possible in light of existing commercially available technology.
- b. Submission of a cost benefit analysis of any deviations from the lowest life cycle cost proposal contained in other design proposals requested by or prepared for submission to the public body (72.5(1)).

The public body may request additional design proposals in light of funds available for construction, aesthetic considerations, or any other reason (72.5(1)).

In connection with development of a statewide building energy efficiency rating system, pursuant to section 473.40, the director of the department of natural resources in consultation with the department of management, state building code director, and state fire marshal, shall develop standards and methods to evaluate design development documents and construction documents based upon the energy efficiency rating system for public buildings, and other life cycle cost factors, to facilitate fair and uniform comparisons between design proposals and informed decision making by public bodies (72.5(2)).

It is the intent of the general assembly to discourage construction of public buildings based upon lowest acquisition cost, and instead to require that such decisions be based upon life cycle costs to reduce energy consumption, maintenance requirements, and continuing burdens upon taxpayers (72.5(4)).

The general assembly declares that energy management is of primary importance in the design of publicly owned facilities. Commencing January 1, 1980, a public agency responsible for the construction or renovation of a facility shall, in a design begun after that date, include as a design criterion the requirement that a life cycle cost analysis be conducted for the facility. The objectives of the life cycle cost analysis are to optimize energy efficiency at an acceptable life cycle cost. The life cycle cost analysis shall meet the requirements of section 470.3 (470.2).

A life cycle cost analysis shall include but is not limited to the following elements:

- a. Specification of energy management objectives and health, safety and functional constraints. The facility design shall comply with applicable state or local building code requirements.
- b. Identification of energy needs of the facility and energy system alternatives to meet those needs.
- c. Cost of the energy system alternatives identified in paragraph "b" of this subsection.
- d. Determination of amounts and timing of cash flow.
- e. Calculation of life cycle cost using an economic model such as, but not limited to, rate of return, annual equivalent cost or present equivalent cost.
- f. Evaluation of design and system alternatives using a method such as, but limited to, design matrixes, ranking tables or network analysis (470.3(1)).

A public agency or a person preparing a life cycle cost analysis for a public agency shall consider the methods and analytical models provided by the department and available through the commissioner, which are suited to the purpose for which the project is intended (470.3(2)).

The life cycle cost analysis shall be approved by the public agency before contracts for the construction or renovation are let. A public agency may accept a facility design and shall meet the requirements of chapter 470 if the design meets the operational requirements of the agency and provides the optimum life cycle cost. The public agency shall retain a copy of the life cycle cost analysis and a statement justifying a design decision both of which shall be available for public inspection at reasonable hours (470.4).

The public agency responsible for the new construction or renovation of a public facility shall implement the recommendations of the life cycle cost analysis (470.8).

Public funds shall not be used for the construction or renovation of a facility unless the design for the work is prepared in accordance with chapter 470 and the actual construction or renovation meets the requirements of the design (470.6).

Various statutes require counties, cities, and school corporations participating in the energy bank program to administer and use competitive-bidding procedures for capital improvements, which would include the implementation of energy conservation measures when the estimated cost exceed statutory limitations; in any event, public policy suggests all public entities administer and use competitive-bidding procedures in such circumstances. Public entities may consult with the private sector, such as an energy savings company, in preparing their proposals for energy conservation measures (OAG #94-9-3(L)).

### **Public Improvements**

"Public Improvement" includes the principal structures, works, component parts and accessories of any of the following:

1. Sanitary, storm, and combined sewers.
2. Drainage conduits, channels and levees.
3. Street grading, paving, graveling, macadamizing, curbing, guttering, and surfacing with oil, oil and gravel or chloride.
4. Street lighting fixtures, connections and facilities.
5. Sewage pumping stations, and disposal and treatment plants.
6. Underground gas, water, heating, sewer and electrical connections located in streets for private property.
7. Sidewalks and pedestrian underpasses or overpasses.
8. Drives and driveway approaches located within the public right of way.
9. Waterworks, water mains and extensions.
10. Plazas, arcades and malls.
11. Parking facilities.
12. Removal of diseased or dead trees from any public place, publicly owned right of way or private property.
13. Traffic-control devices, fixtures, connections, and facilities (384.37(19)).

### **Refunds of Sales Tax on Construction Projects**

A governmental subdivision may make application to the department of revenue and finance for the refund of the sales, services, or use tax upon the gross receipts of all sales of goods, wares, or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with any political subdivision if the property becomes an integral part of the project under contract and at the completion of the project becomes public property and is devoted to educational uses (422.45(7)).

Such contractor shall state under oath, on forms provided by the department of revenue and finance, the amount of such sales of goods, wares or merchandise or services rendered, furnished, or performed and used in the performance of such

contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit which has made any written contract for performance by the contractor. The forms shall be filed by the contractor with the governmental unit before final settlement is made (422.45(7)(a)).

Such governmental unit shall, not more than one year after the final settlement has been made, make application to the department of revenue and finance for any refund of the amount of such sales or use tax which shall have been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, the application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit such claim and, if approved, issue a warrant to the governmental unit in the amount of such sales or use tax which has been paid to the state of Iowa under the contract (422.45(7)(b)).

Any contractor who shall willfully make false report of tax paid under the provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax and any applicable penalty and interest (422.45(7)(c)).

Contractors, subcontractors, and builders who enter into written construction contracts with governmental units are still required to remit sales tax on building materials, supplies and equipment to their suppliers or to pay a corresponding use tax. If the construction contract is a contract which includes machinery or equipment or a mixed contract, the machinery and equipment must be purchased tax free because these items will be resold. There would be no sales tax charged on the sale of machinery or equipment to a governmental unit since these sales are exempt under Iowa Code subsections 422.45 (5) and (8). In addition, the contractor is required to provide the governmental unit with a statement before final settlement of the contract, showing the amount of sales of goods, wares or merchandise or services rendered, furnished or performed and used in the performance of the contract, and the amount of sales and use taxes paid on said items. The department of revenue and finance provides Form 35-002 for this purpose. The governmental unit has one year after final settlement to file a claim for refund on Form 35-003 for sales and use taxes paid by the contractor. The failure of a contractor to remit taxes on materials, supplies and equipment used in the performance of a construction contract does not relieve the contractor of liability even through the refund was not or cannot be claimed (IAC 701--19.12).

Sales tax refunds may be spent by the school board for the original project which was the source of the refund but not for construction of a new building or for an addition to an existing building; funds received from sale of real estate may be used for the purposes listed in Code; and contributions from the public may be used for the purposes designated by the donors but the voters [or board in some instances], not donors, must approve new construction (OAG #86-12-13).

## **Disposition of School Property**

### **Vacating School Facilities**

The board of directors shall notify the cities located within the school district, the counties in which the school district may be located, and the department of general services annually of the facilities and buildings owned by the public school corporation which are vacant and available to be leased or purchased (297.4).

#### **Disposition by Sales and Leases**

The AEA board is authorized to sell, lease, or dispose of, in whole or in part, property belonging to the AEA. Before the AEA may sell property belonging to the agency, the board of directors shall comply with the requirements set forth in section 297.22. Before the board of directors of an AEA may lease property belonging to the agency, the board shall obtain the approval of the director of the Department of Education (273.3(21)).

The board of directors of a school district may sell, lease, or dispose of, in whole or in part, a schoolhouse, site, or other property belonging to the district. Before the board may sell, lease for a period in excess of one year, or dispose of any property belonging to the school, the board shall hold a public hearing on the proposal. After the public hearing, the board may make a final determination on the proposal contained in the resolution. However, property having a value of not more than five thousand dollars, other than real property, may be disposed of by any procedure which is adopted by the board and each sale shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the district (297.22(1)).

If the real property contains less than two acres, is located outside of a city, is not adjacent to a city and was previously used as a schoolhouse site, the procedure contained in sections 297.15 through 297.20 shall be followed in lieu of section 297.22 for sale, lease, or disposition of real property belonging to the district (297.22(1)).



The board of directors of a school district may sell, lease, exchange, give, or grant and accept any interest in real property to, with, or from a county, municipal corporation, school district, township, or AEA if the real property is within the jurisdiction of both the grantor and grantee (297.22(2)).

The governor shall issue an executive order requiring all state agencies to consider the leasing of a vacant facility or building which is appropriately located and which is owned by a public school corporation before a state agency leases, purchases, or constructs a facility or building. The state agency may lease a facility or building owned by a public school corporation with an option to purchase the facility or building in compliance with section 297.22. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the state agency at least thirty days before the termination of the lease (7.20).

A school board has six months during which it can seek the best bid for property advertised for sale (OAG #64-8-7(L)).

Where a school district board conveys real estate to another governmental unit by gift, it does not hold power to spend school funds to demolish school buildings to satisfy the wishes of the donee of the gift because such expenditure would not be for a school purpose (OAG #82-1-1(L)).

Payment for school property must be made in cash. No mortgage on real estate may be accepted. The authority to sell does not give authority to accept anything but cash in settlement for property (OAG #32-8-6(L)).

AEAs may not buy property from sources other than school districts (OAG #94-12-3(L)).

### **Disposition of Land to the Federal Government**

Whenever the federal government, or any agency or department thereof shall have heretofore located or shall hereafter locate in any county an ordnance plant or other project which may be deemed desirable for the development of the national defense or for the purpose of flood control, and for the purpose of so locating such plant or project shall have heretofore determined, or shall hereafter determine, that real property and improvements thereon owned by school districts is required, the board of directors of such school districts by resolution is hereby authorized to sell and convey such property at a price and upon terms as may be agreed upon, any such instruments of conveyance to be executed on behalf of such school districts by the president of such district (274.39).

The proceeds of the sale of the property of the school district shall be deposited with the treasurer of the county and applied so far as necessary to the payment of the outstanding indebtedness of such school district (274.41).

If the federal government, or any agency or department of the federal government, determines that certain real property making up a portion of a school district is required, the director of the department of education may by resolution adjust the boundaries of school districts in which the federally owned property is located and the boundaries of adjoining school districts so as to effectively provide for the schooling of children residing within all of the districts (274.42).

The officers of the altered district shall relinquish to the proper officers of such adjoining district or districts all funds, claims for taxes, credits, and such other personal property in such a manner as the director of the department of education shall direct, which said funds, credits, and personal property shall become the property of such adjoining district or districts as enlarged, to be used as the boards of directors of such districts may direct (274.43).

### **Davis-Bacon and Related Acts (41 CFR 1-18.7; 19 CFR 1, 3, and 5)**

This law is applicable to most federally-financed or assisted contracts of \$2,000 or greater for the construction, alteration, or repair, including painting and decorating, of public buildings or public works. It provides that all laborers and mechanics employed under such contracts be paid the wage rates and fringe benefits found by the department of labor to be prevailing on similar projects for corresponding classifications of laborers and mechanics in the locality in which the work is to be performed and included in a wage decision in the contract. A contract which is subject to the Davis-Bacon Act or most of the related acts is also subject to the Copeland (Anti-Kickback) Act which prohibits illegal deductions or kickbacks of wages. Such contracts also require the submission of certified payroll records on a weekly basis to the contracting agency.